



Virginia  
Regulatory  
Town Hall

Notice of Intended Regulatory Action  
Agency Background Document

<b>Agency Name:</b>	The Department of Human Resource Management
<b>VAC Chapter Number:</b>	1 VAC 55-20
<b>Regulation Title:</b>	Commonwealth of Virginia Health Benefits Program
<b>Action Title:</b>	Amends current regulations so that they comply with state and federal law
<b>Date:</b>	8/17/2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of these amendments is to bring 1 VAC55-20 into compliance with legislation that has been passed on the state and federal level. The State Employee Health Benefits Program is now required by the Code of Virginia to incorporate an independent medical review program. The Code has changed the name of the Department of Personnel and Training to the Department of Human Resource Management; and the Code has extended active coverage for surviving spouses of employees. Legislation has been passed which removes authority for a Health Benefits Advisory Council and a Local Advisory Council

On the federal level, the Health Insurance Portability and Accountability Act (HIPAA) has required the plan to change the way it sets coverage effective dates. HIPAA has caused the plan to eliminate any pre-existing condition or evidence of insurability provisions. IRS section 125 regulations now require plan participants to make plan election changes on a prospective basis.

The administration of the program is moving into the electronic age. The plan now uses electronic enrollment over the web and the regulations needed to reflect this paperless method of administration.

Finally, there is a need to clarify some of the plans administrative procedures, as they have been refined over the years.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

Enter Statement Here

**Code of Virginia**

- 2.1-20.1(B)(4b) ..... Independent medical review in the State Health Benefits Plan
- 2.1-1.1 ..... Name change from Department of Personnel and Training to Department of Human Resource Management
- 2.1-20.1(O) ..... 30 day continuation coverage in the active State Health Benefits Plan for surviving spouses
- 2.17 ..... Elimination of authority for the Health Benefits Advisory Council and the creation of the Human Resource Council
- 2.1-20.1:02(c) ..... Elimination of authority for the Local Advisory Council
  
- 23-50.16:24. .... Employees of the Authority (MCV).
- 2.1-20.1:03 .....Surviving Spouse’s Coverage

**United States Code**

- 42 USC § 300bb-2 ..... Consolidated Omnibus Budget Reconciliation Act

Health Insurance Portability and Accountability Act Includes:

- 29 USC § 1181 ..... Portability, Certification of Prior Coverage
- 29 USC § 1182 ..... Prohibiting Discrimination based on an Individual Health Status
- 26 USC § 125 ..... Cafeteria Plan rules

**Substance**

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

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Enter Statement Here

The purpose of these amendments is to bring the regulations in compliance with legislation that has been passed on the state and federal level.

The program administration is moving into the electronic age. The plan now uses online enrollment over the web and the regulations needed to reflect this paperless method of administration.

Additionally, there is a need to clarify some of the plans administrative procedures, as they have been refined over the years.

1VAC55-20-10

This section changes the name of the agency from The Department of Personnel and Training (DPT) to The Department of Human Resource Management (DHRM).

1VAC55-20-20

This section clarifies definitions. It references enrollment actions. Enrollment action is the term used when an employee makes a change in the health benefits plan through the Internet. It eliminates the definition for Local Advisory Committee. It restates the definition of state employee and moves other covered employees to section 1VAC55-20-320.

1VAC55-20-30

Changes DPT to DHRM.

1VAC55-20-40

Changes Health Benefits advisory council to human resource advisory council.

1VAC55-20-50

Eliminates the local advisory council

1VAC55-20-80

Clarifies this section as it relates to § 2.1-20.1 (C) of the Code of Virginia

1VAC55-20-90

Places a \$300. minimum on the amount that may be appealed through the independent medical review process.

1VAC55-20-130

Clarifies the department's rights and resources.

1VAC55-20-160

Clarifies the original regulations.

1VAC55-20-210

Clarifies the original regulations. Broadens methods of enrollment to enrollment action.

1VAC55-20-230

Removes the evidence of insurability option. Provides administrative guidance to local employers choosing to offer retiree medical.

1VAC55-20-240

Clarifies the original regulations, and the administration of COBRA participants, as they relate to premium payments. Conform regulations to IRS Code section 125, that is elections must be made on a prospective basis.

1VAC55-20-260

Clarifies the original regulations, removing outdated examples.

1VAC55-20-280

Allows local school board to have an October 1 through September 31 plan year.

1VAC55-20-290

Permits the plan to allow local employers, who have left TLC and remained away from the plan for more than three years, to rejoin the plan on a date other than the TLC group's anniversary date.

1VAC55-20-320

Clarifies who is an eligible employee or dependent. It also defines which employees at MCV are eligible to participate in the program per § 23-50.16:24 of the Code of Virginia.

1VAC55-20-330

This sections adds the term enrollment action to allow for web based enrollments. Additionally, it reflects IRS 125 rules requiring that elections be made on a prospective basis except for those enrollments which must be effective on the date of the event (birth, adoption or placement for an adoption) which are mandated by HIPAA and exempted from the 125 prospective rules.

1VAC55-20-340

This section clarifies the current administrative practices for retirees to have their premium payroll deducted through their pension check. Local employers collect retiree premiums and remit them with the premium submitted for active employees.

1VAC55-20-350

This section is updated to comply with IRS section 125.

1VAC55-20-360

This section includes early retirees in the open enrollment process. Specifies that participants must live or work in a HMO service area. It also includes the term enrollment action for web based enrollment.

1VAC55-20-370

This section is updated to comply with IRS section 125. It also includes the term enrollment action for web based enrollment.

1VAC55-20-380

This section is updated to comply with IRS section 125. It includes the term enrollment action for web based enrollment. It adds regulations surrounding the Virginia Sickness and Disability Plan. Additionally, this section clarifies that individuals who live outside of the United States, and also have national health care from that country, are not eligible to participate in coverage offered through the DHRM

1VAC55-20-390

This section provides for the 30-day extension of active coverage for surviving spouses of state employees. It also gives guidance concerning continued eligibility in the program for surviving spouses of active state and retired employees.

1VAC55-20-400

This section conforms to the HIPAA requirement that certificates of coverage are given at the time coverage in the program is terminated.

1VAC55-20-410

This section changes three months to 60 days to reflect the current contractual provisions of the state's HMO contracts. Additionally, it removes the reference to waiting period, which is no longer applicable under the terms of the state health benefits plan.

1VAC55-20-420

This section has been removed since HIPAA no longer allows these types of restrictions to be placed on health benefit plans.

1VAC55-20-430

This section has been modified to make it conform to the Coordination of Benefits language found in the employee handbook. The employee handbook follows the National Health Insurance Commissioners model language.

1VAC55-20-450

This section has been modified to clarify the type of plan and funding of benefits authorized by the Code of Virginia,

1VAC55-20-460

Clarifies the circumstances in which retirees are eligible to participate in the state health benefit plans.

1VAC55-20-480

This section updates the forms currently being used by the plan.

**Alternatives**

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

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Enter Statement Here

These changes are necessitated, by law and bringing the plan in alignment with common administrative practices.

**Family Impact Statement**

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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Enter Statement Here N/A